

Indiana Real Estate Commission

December 15, 2010

MINUTES

I. CALL TO ORDER & ESTABLISHMENT OF QUORUM

Commissioner McClintock called the meeting to order at 8:55 a.m. in Conference Center Room A of the Indiana Government Center-South, 402 West Washington Street, Indianapolis, Indiana 46204 and declared a quorum, in accordance with Ind. Code § 25-34.1-2-3(b).

Commission Members Present:

Charles (Charlie) W. Shook
Mark Bock
Sue Cox
Paul Boyter
Carolyn McClintock
DJ Hines
H. James Litten
Michael Lunsford (arrived late)

Commission Members Absent:

Norman E. McClain
Jarod Brown
Timothy M. Reed
Susan Daniel

State Officials Present:

Jeanette Roberts, Commission Director, Indiana Professional Licensing Agency
Patricia Price, Assistant Director, Indiana Professional Licensing Agency
Eric Felde, Commission Litigation Specialist, Indiana Professional Licensing Agency
Jim Schmidt, Commission Advisory Counsel, Office of the Attorney General

Transcriptionist:

Sherri Rutledge, Rutledge Independent Reporters

II. APPROVAL OF MINUTES

A motion was made and seconded to approve the minutes from the last meeting of the Commission.

Cox/Boyter
7/0/0 Motion carried.

III. ADVISORY COUNSEL'S REPORT

Jim Schmidt gave a short report.

IV. INDIANA ATTORNEY GENERAL'S OFFICE REPORT

Gabrielle Owens gave her report and I asked that they report the number of consumer complaints filed for 2010. She indicated that it could only be done by special request of their IT department.

V. ADMINISTRATIVE HEARINGS

A. State of Indiana v. Donald M. Johnson

IREC 08-51

Re: Hearing for Withdrawal of Probation

This matter is continued.

B. State of Indiana v. Janice Busby

IREC 07-29

Re: Hearing for Withdrawal of Probation

A motion was made and seconded to reschedule the hearing.

Shook/Bock

8/0/0 Motion carried.

C. State of Indiana v. Charles T. Osborne

IREC 08-42

Re: Hearing for Withdrawal of Probation

Present:

Charles Osborne, Respondent

Jason Gross, DAG

A motion was made and seconded to remove the probation from the license.

Cox/Shook

7/0/0 Motion carried.

D. State of Indiana v. Linda Johnson

IREC 94-33

Re: Hearing for Withdrawal of Probation

Present:

Linda Johnson, Respondent

Jason Gross, DAG

A motion was made and seconded to remove the probation from the license.

Shook/Cox

7/0/0 Motion carried.

E. State of Indiana v. Ben Li

IREC 09-11

Re: Request for Reinstatement

Present:

Ben Li, Respondent

Heather Kennedy, DAG

A motion was made and seconded to reinstate the license on indefinite probation.

Boyter/Bock

7/0/0 Motion carried.

F. State of Indiana v. Cheryl Underwood

IREC 09-41

Re: Disciplinary Hearing

This matter is continued.

G. State of Indiana v. Wilfred Makere

IREC 09-72

Re: Disciplinary Hearing

Present:

Wilfred Makere, Respondent

Laura Turner, DAG

A motion was made and seconded to dismiss the complaint.

Boyter/Hines

7/0/1 Motion carried. (Bock recused)

H. State of Indiana v. Ellen Sue Marvel

IREC 09-05

Re: Hearing for Withdrawal of Probation

Present:

Ellen Sue Marvel, Respondent

Heather Kennedy, DAG

A motion was made and seconded to remove the probation from the license.

Litten/Hines

8/0/0 Motion carried.

I. State of Indiana v. Aaron Bybee Adams

IREC 10-03

Re: Order to Show Cause

Present:

Amanda Bailor, DAG

Aaron Adams was not present.

A motion was made and seconded to issue a notice of proposed default.

Shook/Litten

8/0/0 Motion carried.

J. State of Indiana v. Andrew J. Tarbutton

IREC 09-59

Re: Order to Show Cause

Present:

Andrew Tarbutton, Respondent

Amanda Bailor, DAG

A motion was made and seconded to vacate the order to show cause upon payment of the fine and record fee.

Shook/Lunsford
7/0/1 Motion carried. (Bock recused)

- K. In the matter of the license of William M. Fryer**
IREC 10-16
Re: Appeal of Notice of Noncompliance

Present:
William Fryer, Petitioner

A motion was made and seconded to dismiss the Notice of Noncompliance.

Bock/Hines
8/0/0 Motion carried.

- L. State of Indiana v. Kameryn Vaiagae**
IREC 10-25
Re: Disciplinary Hearing

This matter is continued

- M. State of Indiana v. Gary Harmon**
IREC 10-26
Re: Disciplinary Hearing

This matter is continued.

- N. State of Indiana v. Todd Trafelet, Jr.**
IREC 10-27
Re: Disciplinary Hearing

This matter is continued.

VI. PERSONAL APPEARANCE

- A. Charles J. Franklin**

A motion was made and seconded to approve application upon proof of successful completion of the probation.

Boyer/McClintock
8/0/0 Motion carried.

VII. DELIBERATIONS AND POSSIBLE ISSUANCES OF FINAL ORDER

- A. In the matter of the license of Herschel Allen**
IREC 10-12
Re: Proposed Findings of Fact, Conclusions of Law and Order

A motion was made and seconded to accept the Proposed Findings of Fact, Conclusions of Law and Order.

Hines/Bock

8/0/0 Motion carried.

B. In the matter of the license of Shirley Allen

IREC 10-13

Re: Proposed Findings of Fact, Conclusions of Law and Order

A motion was made and seconded to accept the Proposed Findings of Fact, Conclusions of Law and Order.

Boyter/Lunsford

8/0/0 Motion carried.

C. State of Indiana v. Tetyana Crismore

IREC 09-02

Re: Notice of Proposed Dismissal / Request for termination of probation

A motion was made and seconded to vacate the dismissal and reschedule the hearing.

Boyter/Hines

8/0/0 Motion carried.

D. State of Indiana v. Joel Wilmoth

IREC 09-53

Re: Proposed Findings of Fact, Conclusions of Law and Order

A motion was made and seconded to accept the Proposed Findings of Fact, Conclusions of Law and Order.

Bock/Litten

7/0/1 Motion carried. (Cox recused)

A. State of Indiana v. Jennifer Wilmoth

IREC 09-52

Re: Proposed Findings of Fact, Conclusions of Law and Order

A motion was made and seconded to accept the Proposed Findings of Fact, Conclusions of Law and Order.

Bock/Litten

7/0/1 Motion carried. (Cox recused)

VIII. CONTINUING EDUCATION AUDIT REVIEW

A. Michael Gaudzels

Re: SP30202394

A motion was made and seconded to find the licensee in noncompliance for failure to complete 6 hours during the renewal period as required and impose a \$1000 civil penalty. The CE hours completed after the renewal period are acceptable to satisfy the deficiency.

Shook/Boyter

7/0/0 Motion carried.

B. Geraldine E. Stevens
Re: SP39802004

This matter is tabled. Staff will request documentation of fire and/or suggest that she contact the providers to get documentation of any completed CE.

C. Thomas Szczepanski
Re: SP30403139

A motion was made and seconded to find the licensee in noncompliance for failure to complete 8 hours (4 of which should be in mandatory hours) during the renewal period as required and impose a \$1000 civil penalty and require the make-up of hours within 6 months.

Shook/Boyter
7/0/0 Motion carried.

D. Nicholas Root
Re: SP30602242

A motion was made and seconded to find the licensee in noncompliance for failure to complete all 16 hours during the renewal period as required and impose a \$1000 civil penalty. The CE hours completed after the renewal period are acceptable to satisfy the deficiency.

Shook/Boyter
7/0/0 Motion carried.

E. Kelly DeCamp
Re: SP30300912

A motion was made and seconded to find the licensee in noncompliance for failure to complete all 16 hours during the renewal period as required and impose a \$1000 civil penalty. The CE hours completed after the renewal period are acceptable to satisfy the deficiency.

Shook/Boyter
7/0/0 Motion carried.

F. Phyllis Palmquist
Re: SP09102301

A motion was made and seconded to find the licensee in noncompliance for failure to complete 2 mandatory hours during the renewal period as required and impose a \$125 civil penalty and require the make-up of hours within 6 months.

Shook/Boyter
7/0/0 Motion carried.

G. David Neu
Re: SP30200240

A motion was made and seconded to find the licensee in noncompliance for failure to complete 2 mandatory hours during the renewal period as required and impose a \$125 civil penalty and require the make-up of hours within 6 months.

Shook/Boyter
7/0/0 Motion carried.

H. Megan Foley
Re: SP30603059

A motion was made and seconded to find the licensee in noncompliance for failure to complete 2 mandatory hours during the renewal period as required and impose a \$125 civil penalty and require the make-up of hours within 6 months.

Shook/Boyter
7/0/0 Motion carried.

I. Derdika Kljajic
Re: SP30704290

A motion was made and seconded to find the licensee in noncompliance for failure to complete 2 mandatory hours during the renewal period as required and impose a \$125 civil penalty and require the make-up of hours within 6 months.

Shook/Boyter
7/0/0 Motion carried.

IX. OLD/NEW BUSINESS

A. Earnest/Escrow Money

A question was brought up about unclaimed money that is held by a broker or broker company. Mr. Schmidt suggests that one contact the AG office for information on how to turn it over to them.

B. Mandatory CE – Appraisal courses
Re: Mark Ratterman email

Effective January 1, 2011, all appraiser courses count for elective hours only and will not count towards mandatory hours.

C. Candice McKinney
Re: Notice of Tort Claim

The board reviewed this filing.

D. Donte Adams
IREC 09-70
Re: Civil Penalty due 11/30/2010

Staff will send a letter of reminder. If no response is received in 4 weeks set for show cause order for March.

X. Application Review Committees

A. Application for Waiver of One Year Experience

1. Steven Lukemeyer was approved by the Committee.